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State Bar Court of California
Hearing Department
Los Angeles
ALTERNATIVE DISCIPLINE PROGRAM

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Monique T. Miller Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 213-765-1486</p> <p>Bar # 212469</p>	<p>Case Number (s)</p> <p>07-O-10980; 07-O-11008; 07-O-11015; 07-O-11205; 07-O-11335; 07-O-11403; 17-O-11972; 07-O-12243</p>	<p>(for Court's use)</p> <p align="center">FILED OCT 05 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Richard Alan Brubaker 729 Mission St #300 South Pasadena, CA 91030 (626) 403-2288</p> <p>Bar# 134130</p>	<p>Submitted to: Program Judge</p> <p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: Richard Alan Brubaker</p> <p>Bar # 134130</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 14, 1988.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 16 pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☒ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice ~~coupled with present misconduct which is not deemed serious~~. Respondent practiced for 22 years without a prior.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

ATTACHMENT TO
STIPULATION RE FACTS & CONCLUSIONS OF LAW

IN THE MATTER OF: RICHARD ALAN BRUBAKER, #134130

CASE NUMBERS: 07-O-10980; 07-O-11008; 07-O-11015; 07-O-11205;
 07-O-11335; 07-O-11403; 07-O-11972; 07-O-12243

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND
STIPULATED FACTS AND CULPABILITY**

The parties hereby waive any variance between the Notice of Disciplinary Charges ("NDC") filed on March 24, 2010 in Case Nos. 07-O-10980, 07-O-11008; 07-O-11015; 07-O-11205; 07-O-11335; 07-O-11403; 07-O-11972; 07-O-12243 and the facts and conclusions of law contained in this stipulation.

Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges relating to the cases that are the subject matter of this stipulation.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

CASE NO. 07-O-10980

FACTS

1. On December 25, 2005, Nancy Diaz (hereinafter "Diaz") employed Respondent to represent her in a claim for personal injuries sustained in an automobile accident that occurred on December 24, 2005. Respondent agreed to represent Diaz for a contingency fee of 33 1/3% the total amount recovered.

2. At all times relevant to the events alleged herein, Respondent maintained a client trust account at Wells Fargo Bank, account number xxx-xxx6623 ("CTA").¹

3. In June or July 2006, Respondent settled Diaz's case for \$3,500.

4. When Diaz accepted the \$3,500 settlement offer in or about June or July 2006, she was informed by Respondent's employee that her portion of the settlement proceeds would be \$2,333.00 and would be paid to her promptly upon receipt by Respondent's office.

5. On July 12, 2006, the insurance carrier for the adverse party issued a settlement check in the amount of \$3,500 made payable to Diaz and Respondent. On this date, the insurance carrier sent the settlement check to Respondent. Respondent received the settlement check.

6. On December 8, 2006, Respondent deposited the \$3,500 settlement check into his CTA.

¹ The complete account number has been omitted due to privacy concerns.

7. Respondent was entitled to attorney fees of \$1,166.67 from Diaz's settlement.
8. Respondent was required to maintain in his CTA the sum of \$2,333.33 on behalf of Diaz.

9. Even though Respondent received the \$3,500 settlement check on or about July 12, 2006, Diaz was not paid her share of the settlement proceeds until in or about September 2008.

10. Between October 2, 2006, and December 19, 2006, Respondent's employee, Visaida Dimas ("Dimas"), without Respondent's knowledge and consent, issued checks drawn upon Respondent's CTA to pay for Respondent's personal and business expenses including, but not limited to, the following:

<u>Check No.:</u>	<u>Date Issued:</u>	<u>Amount:</u>	<u>Payee:</u>
6281	10/02/06	\$2,121.75	VDA Property Company (Rent for Law Office)
6303	12/19/06	\$1,230	Visaida Dimas (Employee)
6304	12/19/06	\$1,580	Cash (Wages for Visaida Dimas)

11. Respondent failed to supervise Dimas.

12. On December 8, 2006, Respondent issued two checks to himself, check no. 6294 for \$1,166.67 and check no. 6295 for \$1,166.67, from his CTA both as payment for attorney fees in Diaz's case.

13. On December 8, 2006, and December 18, 2006, Respondent negotiated checks no. 6294 and 6295, respectively.

14. On March 13, 2007, the State Bar opened an investigation pursuant to a complaint filed by Diaz ("Diaz complaint").

15. On April 19, 2007, and May 3, 2007, a State Bar Investigator mailed letters to Respondent at his address on file in the State Bar's membership records regarding the Diaz complaint. The State Bar Investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Diaz complaint. Respondent received the letters.

16. At no time did Respondent provide a written response to the allegations of misconduct in the Diaz complaint.

CONCLUSIONS OF LAW

17. By not maintaining \$2,333.33 on behalf of Diaz in a client trust account, Respondent failed to maintain client funds in trust, in violation of Rules of Professional Conduct, rule 4-100(A).

18. By failing to promptly remit to Diaz her share of the settlement proceeds when Diaz had requested the funds in July or June 2006, Respondent failed to promptly pay client funds as requested by his client, in violation of Rules of Professional Conduct, rule 4-100(B)(4).

19. By failing to supervise his employee Dimas, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

20. By not providing a written response to the investigator's letters regarding the allegations in the Diaz complaint or otherwise cooperate in the investigation of the Diaz complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

CASE NO. 07-O-11008

FACTS

21. On November 6, 2003, James Curtis (hereinafter "Curtis ") employed Respondent to represent him in a claim for personal injuries sustained in an automobile accident that occurred on October 10, 2003.

22. On June 29, 2004, Curtis's insurance carrier issued a medical payment reimbursement check in the amount of \$3,987.65 made payable to Curtis and Respondent ("med pay check"). Curtis's insurance carrier sent the med pay check to Respondent. Respondent received the med pay check.

23. On July 2, 2004, Respondent deposited the med pay check into his CTA. Respondent and Curtis agreed that Respondent would hold Curtis's share of the med pay check in trust until the disposition of the entire Curtis matter.

24. On July 19, 2004, Respondent filed a complaint on behalf of Curtis in the Los Angeles County Superior Court entitled *James Curtis v. Eric Kim, et al.*, case no. LC068946 ("Curtis matter").

25. On May 18, 2006, a status conference was held in the Curtis matter, during which the court scheduled a mandatory settlement conference for October 4, 2006. Respondent did not appear at the status conference but sent another attorney to appear on his behalf. The attorney who appeared on Respondent's behalf at the status conference notified Respondent that a mandatory settlement conference was scheduled for October 4, 2006. Respondent received the notice.

26. On October 4, 2006, Respondent failed to appear at the mandatory settlement conference. As a result of Respondent's failure to appear at the mandatory settlement conference, the court dismissed the Curtis matter. The court served notice of its dismissal of the Curtis matter on Respondent. Respondent received the notice.

27. From July 2006 through October 2006, Curtis called Respondent's office several times and left telephone messages for Respondent inquiring about the status of the Curtis matter and requesting that Respondent return the calls. On August 21, 2006, Curtis sent a letter to Respondent inquiring about the status of the Curtis matter. Respondent received the messages and letter.

28. Respondent did not respond to Curtis's calls or letter until they met on or October 16, 2006, to discuss the status of the Curtis matter. When Respondent and Curtis met to discuss the status of the Curtis matter on October 16, 2006, Respondent informed Curtis that the court had dismissed his case on October 4, 2006, because Respondent had failed to appear at the mandatory settlement conference. Respondent told Curtis that he would file a motion to set aside the dismissal.

29. On November 1, 2006, Respondent filed a notice of motion and motion for an order setting aside order of dismissal of the Curtis matter. The motion to set aside the dismissal that Respondent served and filed gave notice of a hearing date of November 30, 2006.

30. On November 30, 2006, Respondent failed to appear at the hearing on the motion to set aside the dismissal. As a result, the court took the motion to set aside the dismissal off calendar, and the October 4, 2006 order dismissing the Curtis matter was not set aside and remained in effect. The court served notice on Respondent of its ruling. Respondent received the notice.

31. On November 30, 2006, when Respondent failed to appear at the hearing on the motion to set aside the dismissal which resulted in the court not setting aside the dismissal, the Curtis matter ended and Respondent had an obligation to render an accounting of the funds that he was holding in trust on behalf of Curtis. At no time did Respondent render an accounting to Curtis.

32. After the court took Respondent's motion to set aside the dismissal off calendar, Respondent failed to re-file the motion to set aside the dismissal or seek any other relief from the dismissal on behalf of Curtis.

33. At no time did Respondent inform Curtis that Respondent failed to appear at the hearing on the motion to set aside the dismissal, that the court took the motion off calendar, or that the Curtis matter had not been reinstated by the court.

34. On March 14, 2007, the State Bar opened an investigation pursuant to a complaint filed by Curtis ("Curtis complaint").

35. On April 19, 2007, and May 3, 2007, a State Bar Investigator mailed letters to Respondent at his address on file in the State Bar's membership records regarding the Curtis complaint. The State Bar Investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Curtis complaint. Respondent received the letters.

36. At no time did Respondent provide a written response to the allegations of misconduct in the Curtis complaint.

CONCLUSIONS OF LAW

37. By failing to appear at the mandatory settlement conference, allowing the Curtis matter to be dismissed by the court, failing to appear at the hearing on the motion to set aside the dismissal, and failing to re-file the motion to set aside the dismissal or seek any other relief on behalf of Curtis, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

38. By failing to inform Curtis that Respondent failed to appear at the hearing on the motion to set aside the dismissal, that the court took the motion off calendar, or that the Curtis matter had not been reinstated by the court, Respondent wilfully failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in violation of Business and Professions Code section 6068(m).

39. By failing to respond to Curtis's telephone calls and letter until October 16, 2006, Respondent failed to respond to a client's reasonable status inquiries, in violation of Business and Professions Code section 6068(m).

40. By failing to provide Curtis with an accounting, Respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession, in violation of Rules of Professional Conduct, rule 4-100(B)(3).

41. By not providing a written response to the investigator's letters regarding the allegations in the Curtis complaint or otherwise cooperate in the investigation of the Curtis complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

CASE NO. 07-O-11015

FACTS

42. On May 25, 2005, Dana Jimenez (hereinafter "Jimenez") employed Respondent to represent her in a claim for personal injuries sustained in a slip and fall accident that occurred on May 22, 2005.

43. On April 7, 2006, Respondent filed a complaint on behalf of Jimenez in the Los Angeles County Superior Court entitled *Dana Jimenez v. City of Santa Monica*, case no. SM 06C01620 ("slip and fall case").

44. On April 7, 2006, the court scheduled a case management conference on the slip and fall case for September 1, 2006. The court served notice of the case management conference on Respondent. Respondent received the notice.

45. On September 1, 2006, Respondent failed to appear at the case management conference. The court scheduled an order to show cause hearing for October 16, 2006. The court served notice of the order to show cause hearing on Respondent. Respondent received the notice.

46. On October 16, 2006, Respondent failed to appear at the order to show cause hearing. As a result, the court dismissed the slip and fall case. The court served notice on Respondent that it had dismissed the slip and fall case. Respondent received the notice.

47. At no time did Respondent file a motion to set aside the dismissal of the slip and fall case or seek any other relief from the dismissal on behalf of Jimenez.

48. At no time did Respondent inform Jimenez that the court dismissed the slip and fall case.

49. In November 2006 and December 2006, Jimenez called Respondent's office several times and left telephone messages for Respondent inquiring about the status of the slip and fall case and requesting that Respondent return the calls. Respondent received the messages. Respondent did not return the calls.

50. On March 14, 2007, the State Bar opened an investigation pursuant to a complaint filed by Jimenez ("Jimenez complaint").

51. On April 19, 2007, and May 3, 2007, a State Bar Investigator mailed letters to Respondent at his address on file in the State Bar's membership records regarding the Jimenez complaint. The State Bar Investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Jimenez complaint. Respondent received the letters.

52. At no time did Respondent provide a written response to the allegations of misconduct in the Jimenez complaint.

CONCLUSIONS OF LAW

53. By failing to appear at the case management conference, failing to appear at the order to show cause hearing, allowing the slip and fall case to be dismissed by the court, and failing to file a motion to set aside the dismissal or seek any other relief on behalf of Jimenez, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

54. By failing to inform Jimenez that the court dismissed her case, Respondent wilfully failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in violation of Business and Professions Code section 6068(m).

55. By failing to respond to Jimenez's telephone calls, Respondent failed to respond to a client's reasonable status inquiries, in violation of Business and Professions Code section 6068(m).

56. By not providing a written response to the investigator's letters regarding the allegations in the Jimenez complaint or otherwise cooperate in the investigation of the Jimenez complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

CASE NO. 07-O-11205

FACTS

57. On November 29, 2005, Robert Jamison (hereinafter "Jamison") employed Respondent to represent him in a claim for personal injuries sustained on May 22, 2005.

58. From May 2006 through October 2006, Jamison called and visited Respondent's office several times, each time leaving messages for Respondent inquiring about the status of his case and requesting that Respondent return the messages. Respondent received the messages. Respondent returned only one of Jamison's calls in late October 2006. In this telephone conversation, Respondent scheduled an appointment to meet with Jamison on November 1, 2006.

59. On November 1, 2006, Respondent met with Jamison and told him that he had been ill but was ready to proceed with Jamison's representation. Thereafter, Respondent did not communicate with Jamison.

60. At no time did Respondent perform any legal services on behalf of Jamison.

61. In March 2007, Jamison employed attorney Marc Katzman (hereinafter "Katzman") to represent him.

62. On March 21, 2007, Katzman mailed a letter to Respondent on behalf of Jamison requesting that he return Jamison's files. Respondent received the letter.

63. At no time did Respondent release Jamison's files to him or to Katzman.

64. On March 27, 2007, the State Bar opened an investigation pursuant to a complaint filed by Jamison ("Jamison complaint").

65. On April 18, 2007, and May 7, 2007, a State Bar Investigator mailed letters to Respondent at his address on file in the State Bar's membership records regarding the Jamison complaint. The State Bar Investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Jamison complaint. Respondent received the letters.

66. At no time did Respondent provide a written response to the allegations of misconduct in the Jamison complaint.

CONCLUSIONS OF LAW

67. By failing to perform any legal services on behalf of Jamison, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

68. By failing to respond to Jamison's messages between May 2006 and October 2006, Respondent failed to respond to a client's reasonable status inquiries, in violation of Business and Professions Code section 6068(m).

69. By not releasing the client files to Jamison or Katzman, Respondent failed, upon termination of employment, to release promptly to a client, at the request of the client, all the client papers, in violation of Rules of Professional Conduct, rule 3-700(D)(1).

70. By not providing a written response to the investigator's letters regarding the allegations in the Jamison complaint or otherwise cooperate in the investigation of the Jamison complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

CASE NO. 07-O-11335

FACTS

71. On February 3, 2005, Roberto Martinez (hereinafter "Roberto") employed Respondent to represent him in a claim for personal injuries sustained in a shooting incident that occurred on January 28, 2005.

72. On April 8, 2005, Respondent filed a complaint on behalf of Roberto in the Los Angeles County Superior Court entitled *Roberto Martinez v. Janet Alvarez, et al.*, case no. VC044200 (the "Martinez matter").

73. Thereafter, Roberto passed away.

74. In November 2005, Roberto's father, Jose Martinez (hereinafter "Jose"), spoke with Respondent and Respondent told Jose that Respondent would continue providing legal representation in the Martinez matter on behalf of Jose as Roberto's successor in interest.

75. On February 16, 2006, the court scheduled a case management conference on the Martinez matter for March 17, 2006. Respondent was present in court when the March 17, 2006 case management conference was scheduled and had notice of the hearing.

76. On March 3, 2006, Respondent filed an ex parte application for an order permitting the continuation of the action by the decedent's successor in interest on behalf of Jose. On March 3, 2006, the court granted the application and issued an order permitting Jose to continue with the Martinez matter as the successor in interest.

77. Thereafter, Respondent failed to perform any legal services on behalf of Jose or Martinez's estate.

78. On March 17, 2006, Respondent failed to appear at the case management conference. The court scheduled mandatory settlement conference for August 30, 2006. On March 17, 2006, opposing counsel served notice of the mandatory settlement conference on Respondent. Respondent received the notice.

79. On August 30, 2006, Respondent failed to appear at the mandatory settlement conference. The court scheduled an order to show cause hearing re dismissal for September 13, 2006. Opposing counsel served notice of the order to show cause hearing on Respondent. Respondent received the notice.

80. On September 13, 2006, Respondent failed to appear at the order to show cause hearing. As a result, the court dismissed the Martinez matter for failure to prosecute. Opposing counsel served notice on Respondent that the court had dismissed the Martinez matter. Respondent received the notice.

81. At no time did Respondent file a motion to set aside the dismissal of the Martinez matter or seek any other relief from the dismissal on behalf of Jose or Martinez's estate.

82. At no time did Respondent inform Jose that the court dismissed the Martinez matter.

83. On February 28, 2007, Jose sent a letter to Respondent inquiring about the status of the Martinez matter. Respondent received the letter. Respondent did not respond to the letter.

84. On April 6, 2007, the State Bar opened an investigation pursuant to a complaint filed by Jose ("Martinez complaint").

85. On April 18, 2007, and May 3, 2007, a State Bar Investigator mailed letters to Respondent at his address on file in the State Bar's membership records regarding the Martinez complaint. The State Bar Investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Martinez complaint. Respondent received the letters.

86. At no time did Respondent provide a written response to the allegations of misconduct in the Martinez complaint.

CONCLUSIONS OF LAW

87. By failing to perform any legal services on behalf of Jose or Martinez's estate after March 3, 2006, failing to appear at the case management conference, failing to appear at the mandatory settlement conference, failing to appear at the order to show cause hearing, allowing the Martinez matter to be dismissed by the court, and failing to file a motion to set aside the dismissal or seek any other relief on behalf of Jose or Martinez's estate, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

88. By failing to inform Jose that the court dismissed the Martinez matter, Respondent wilfully failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in violation of Business and Professions Code section 6068(m).

89. By failing to respond to Jose's letter, Respondent failed to respond to a client's reasonable status inquiries, in violation of Business and Professions Code section 6068(m).

90. By not providing a written response to the investigator's letters regarding the allegations in the Martinez complaint or otherwise cooperate in the investigation of the Martinez complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

CASE NO. 07-O-11403

FACTS

91. On February 2, 2005, Ophelia Longoria ("Longoria") employed Respondent to represent her in a claim for personal injuries sustained in an automobile vs. pedestrian accident that occurred on or about January 23, 2005. Pursuant to the terms of employment, Respondent was to pursue a claim against the driver of the vehicle, Humberto Correa ("Correa"), and against the City of Bell Gardens.

92. Thereafter, Respondent filed a claim with the City of Bell Gardens which was subsequently rejected. After the City of Bell Gardens rejected Longoria's claim and served Respondent with notice of rejection of the claim, Respondent failed to file a civil action against the City of Bell Gardens on behalf of Longoria.

93. In May 2005, Respondent settled Longoria's claim against Correa's insurance carrier for the policy limits of \$25,000.

94. On May 12, 2005, Correa's insurance carrier issued a settlement check in the amount of \$25,000 made payable to Longoria and Respondent. Correa's insurance carrier sent the settlement check to Respondent. Respondent received the settlement check.

95. On May 16, 2005, Respondent deposited the settlement check into his CTA. Respondent and Longoria agreed that Respondent would hold Longoria's share of the \$25,000 settlement in trust until the disposition of her civil lawsuit against the City of Bell Gardens.

96. When Respondent failed to file a civil lawsuit against the City of Bell Gardens, Longoria's claim was lost and Respondent had an obligation to render an accounting of the funds that he was holding in trust on behalf of Longoria. At no time did Respondent render an accounting to Longoria.

97. On April 12, 2007, the State Bar opened an investigation pursuant to a complaint filed by Longoria ("Longoria complaint").

98. On April 18, 2007, and May 3, 2007, a State Bar Investigator mailed letters to Respondent at his address on file in the State Bar's membership records regarding the Longoria complaint. The State Bar Investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Longoria complaint. Respondent received the letters.

99. At no time did Respondent provide a written response to the allegations of misconduct in the Longoria complaint.

CONCLUSIONS OF LAW

100. By failing to file a civil action against the City of Bell Gardens on behalf of Longoria, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

101. By failing to provide Longoria with an accounting, Respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession, in violation of Rules of Professional Conduct, rule 4-100(B)(3).

102. By not providing a written response to the investigator's letters regarding the allegations in the Longoria complaint or otherwise cooperate in the investigation of the Longoria complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

CASE NO. 07-O-11972

FACTS

103. On December 15, 2004, Alicia Elipinali (hereinafter "Elipinali ") employed Respondent to represent her in a claim for personal injuries sustained in a slip and fall accident that occurred on November 18, 2004.

104. On November 13, 2006, Respondent attempted to file a complaint on behalf of Elipinali in the Los Angeles County Superior Court.

105. On November 14, 2006, the Los Angeles County Superior Court rejected the complaint because it contained an incorrect court address. On or about this date, the court notified Respondent that it had rejected the complaint for filing. Respondent received the notice.

106. At no time thereafter, did Respondent file another complaint on behalf of Elipinali. Thereafter, the statute of limitations expired and Elipinali's case was lost.

107. On May 22, 2007, the State Bar opened an investigation pursuant to a complaint filed by Elipinali ("Elipinali complaint").

108. On June 13, 2007, a State Bar Investigator mailed a letter to Respondent at his address on file in the State Bar's membership records regarding the Elipinali complaint. The State Bar Investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Elipinali complaint. Respondent received the letter.

109. At no time did Respondent provide a written response to the allegations of misconduct in the Elipinali complaint.

CONCLUSIONS OF LAW

110. By failing to file a lawsuit on behalf of Elipinali, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

111. By not providing a written response to the investigator's letter regarding the allegations in the Elipinali complaint or otherwise cooperate in the investigation of the Elipinali complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of business and Professions code section 6068(i).

CASE NO. 07-O-12243

FACTS

112. On November 19, 2004, Edward Reiff (hereinafter "Reiff") employed Respondent to represent him in a claim for personal injuries sustained in a slip and fall accident that occurred on November 18, 2004.

113. On February 1, 2006, Respondent filed a complaint on behalf of Reiff in the Los Angeles County Superior Court entitled *Edward Reiff v. Lotus Fong, et al.*, case no. BC346794 ("Reiff matter").

114. On May 23, 2006, an order to show cause hearing was held regarding Respondent's failure to file the proof of service. On this date, Respondent failed to appear at the order to show cause hearing. As a result, on or about this date, the court dismissed the Reiff matter. On this date, the court served notice on Respondent that it had dismissed the Reiff matter. Respondent received the notice.

115. At no time did Respondent file a motion to set aside the dismissal of the Reiff matter or seek any other relief from the dismissal on behalf of Reiff.

116. At no time did Respondent inform Reiff that the court dismissed the Reiff matter.

117. On February 15, 2007, Reiff called Respondent's office and a left telephone message for Respondent inquiring about the status of the Reiff matter and requested that Respondent return the call.

On March 4, 2007, Reiff sent a letter to Respondent inquiring about the status of the Reiff matter. Respondent received the message and letter. Respondent did not call Reiff.

118. On June 7, 2007, the State Bar opened an investigation pursuant to a complaint filed by Reiff ("Reiff complaint").

119. On June 13, 2007, a State Bar Investigator mailed a letter to Respondent at his address on file in the State Bar's membership records regarding the Reiff complaint. The State Bar Investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Reiff complaint. Respondent received the letter.

120. At no time did Respondent provide a written response to the allegations of misconduct in the Reiff complaint.

CONCLUSIONS OF LAW

121. By failing to file a proof of service of the complaint, failing to appear at the order to show cause hearing, allowing the Reiff matter to be dismissed by the court, and failing to file a motion to set aside the dismissal of the Reiff matter or seek any other relief from the dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

122. By failing to inform Reiff that the court dismissed his case, Respondent wilfully failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in violation of Business and Professions Code section 6068(m).

123. By failing to respond to Reiff's telephone call and letter, Respondent failed to respond to a client's reasonable status inquiries in violation of Business and Professions Code section 6068(m).

124. By not providing a written response to the investigator's letter regarding the allegations in the Reiff complaint or otherwise cooperate in the investigation of the Reiff complaint, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

(Do not write above this line.)

In the Matter of
Richard Alan Brubaker

Case number(s):

07-O-10980; 07-O-11008; 07-O-11015; 07-O-11205;
07-O-11335; 07-O-11403; 17-O-11972; 07-O-12243

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

June 4, 2010
Date

Richard Alan Brubaker
Respondent's Signature

Richard Alan Brubaker
Print Name

June 4, 2010
Date

Richard Alan Brubaker
Respondent's Counsel Signature

In Pro Per
Print Name

June 8, 2010
Date

Monique T. Miller
Deputy Trial Counsel's Signature

Monique T. Miller
Print Name

(Do not write above this line.)

In the Matter Of
Richard Alan Brubaker

Case Number(s):
**07-O-10980; 07-O-11008; 07-O-11015; 07-O-11205;
07-O-11335; 07-O-11403; 17-O-11972; 07-O-12243**

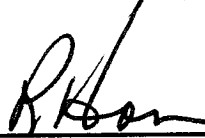
ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public,
IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without
prejudice, and:

- ☒ The stipulation as to facts and conclusions of law is APPROVED.
- ☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set
forth below.
- ☐ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the
stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or
further modifies the approved stipulation; or 3) Respondent is not accepted for participation
in the Program or does not sign the Program Contract. (See rule 135(b) and 802(a), Rules of
Procedure.)

10-5-10
Date



Judge of the State Bar Court
RICHARD A. HONN

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 5, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

in a sealed envelope for collection and mailing on that date as follows:

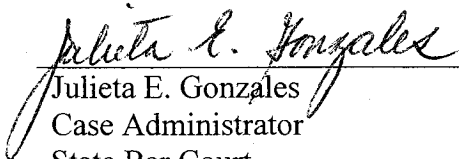
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RICHARD A BRUBAKER ESQ
729 MISSION ST #300
SOUTH PASADENA, CA 91030

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Monique T. Miller, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 5, 2010.



Julieta E. Gonzales
Case Administrator
State Bar Court